

RESTITUTION JUDGMENT AND INSTRUCTIONS FOR OBTAINING PAYMENT

The following information is to advise you of your legal rights and contact information to assist you in receiving restitution from the offender. Crime victims in Alaska have a constitutional right to restitution from the offender. Alaska Const., Art. I, sec. 24. Once a restitution order is granted by the court, there are multiple ways it can be enforced.

ENFORCEMENT DURING PAROLE/PROBATION

If the court, when sentencing a defendant, suspends all or a portion of the defendant's sentence and places the defendant on probation, the defendant's compliance with the order of restitution will be made a condition of the defendant's sentence during the period of probation.

If the offender has been convicted of a felony crime, and has been released on probation or parole, then the offender must report to a probation officer who will monitor the defendant's compliance with probation including the requirement to pay restitution. To contact the probation officer in an adult criminal matter, contact (907) 334-2300 in Anchorage or the Department of Corrections Victim Service Unit at 1 (877) 741-0741 or go to <http://www.correct.state.ak.us/probation-parole/victim-service-unit>

A defendant convicted of a felony offense must also submit a completed sworn financial statement to the assigned probation officer within 30 days after conviction. The court form is CR-206 FINANCIAL STATEMENT. A copy of this form is online at <http://www.courts.alaska.gov/forms/index.htm>

A defendant convicted of a misdemeanor offense must submit a completed sworn financial statement if he opposes the amount the state prosecutor requests the court to order the offender to pay for criminal restitution.

If the offender fails to pay restitution as required, the prosecutor or probation officer (in felony cases) or the prosecutor (in misdemeanor cases) may file a petition to revoke the offender's probation. If the court revokes the offender's probation, the offender may be resentenced. The court may order the offender to serve part or all of the suspended jail time and may revoke other suspended terms of the sentence. Probation may also be modified or extended. When an offender's probation expires, any unpaid restitution balance is considered to be an enforceable, civil judgment. Civil judgments accrue interest by statute according to AS 09.30.070. The current interest rate, for judgments entered in 2015, is 3.75%. For more information about interest rates, go to <http://www.courts.alaska.gov/forms/index.htm> on the Alaska Court System website. Whether or not the offender is on probation, the crime victim, or the state prosecutor on behalf of the crime victim, may enforce the criminal restitution order as a judgment through any procedure authorized by law to enforce a civil judgment.

A crime victim may elect to have the State of Alaska, Department of Law, Collections Unit attempt to collect a judgment of restitution under AS 12.55.051(g), have a private collection agency and/or a private lawyer attempt to collect the debt, or attempt to collect the debt without assistance.

STATE COLLECTION

When a criminal restitution order enters, the court will automatically forward a copy of the order to the Collections Unit. Collections will send a notice to the crime victim of their right to have the state collect the debt or to collect the debt without state assistance. State Collections efforts are provided without cost to the crime victim. If the crime victim does not respond to the notice, within 30 days, the Collections Unit will automatically begin collection action on behalf of the victim. If the State Collections Unit takes collection action on a restitution order, the State may not make a settlement with the offender without the crime victim's consent. **IMPORTANT NOTE:** The State Collections office has limits on the amount and means it will use to collect. At this writing, the State Collections Unit does not calculate or collect accrued interest on restitution judgments, and its collections efforts are limited to attaching the offender's Alaska Permanent Fund Dividend (PFD) checks and sporadic "bank sweeps." Contact information for the state collections unit:

State of Alaska Department of Law
Civil Division, Collections & Support
1031 West Fourth Avenue, Suite 200
Anchorage, AK 99501
(907) 269-5100

PRIVATE COLLECTION

If a crime victim enforces or collects restitution through civil process, collection costs and full reasonable attorney fees shall be awarded. Consult your yellow pages telephone listings or contact your local court clerk's office for the name(s) of private collection agencies in your area.

A civil or small claims judgment is not required to establish a debt already ordered in a criminal restitution judgment. For more information that will assist crime victims who choose to collect on a criminal restitution order on their own, see the following court publications: CIV-550 EXECUTION PROCEDURE JUDGMENT CREDITOR BOOKLET and CIV-503 INSTRUCTIONS ABOUT EXECUTING ON THE ALASKA PERMANENT FUND DIVIDEND. These publications and court forms are available at your local court clerk's office or online at <http://courts.alaska.gov/forms/index.htm> of the Alaska Court System website.

CIVIL LITIGATION

To be made whole, crime victims may need to seek additional civil financial compensation from the offender. Not all types of damages may be addressed in criminal proceedings, for example, punitive damages, damages for pain and suffering, and future damages not anticipated or calculable at the time the criminal restitution order enters may will not be addressed in the criminal matter. A judge's criminal restitution order does not limit a crime victim's ability to obtain full compensation through the civil process. (A crime victim may not, however, recover double damage awards from a defendant by filing for both criminal and civil judgments.) For financial compensation through civil court proceedings, crime victims are encouraged to contact a private attorney for a consultation.

For a referral to a private civil attorney in your area, contact the Alaska Bar Association Lawyer Referral Service at (907) 272-0352 (in Anchorage) or at 1 (800) 770-9999 (toll-free within Alaska).

Recent Alaska case law has established that, when a defendant is convicted of a crime after pleading no contest, the facts establishing the crime are proved beyond a reasonable doubt. *Lamb v. Anderson*, 126 P.3d 132 (Alaska 2005). Therefore, crime victims in civil litigation may file a copy of the criminal judgment to conclusively establish that the crime occurred that gave rise to the civil claim.

Certain time limits, called statutes of limitation, apply to create deadlines for filing for small claims or other civil judgments. The statutes of limitation is often two years from the date the crime occurred but may be longer. Consultation with a private attorney can assist the crime victim to determine whether and when a time limit to file a civil suit will expire.

SMALL CLAIMS COURT

The crime victim also may seek a civil judgment for a debt by filing a small claims or other civil lawsuit without hiring a lawyer. To collect restitution in the amount of \$10,000 or less, excluding court costs and interest, the crime victim may file a small claims lawsuit. A packet with instructions and forms to file a small claims suit is available from the clerk of court at your local state court office. Instructions and forms for filing a small claims action also may be accessed at <http://www.courts.alaska.gov/forms/index.htm> on the Alaska Court System website. Again, for information to collect independently on a small claims judgment, see the following court publications: CIV-550 EXECUTION PROCEDURE JUDGMENT CREDITOR BOOKLET and CIV-503 INSTRUCTIONS ABOUT EXECUTING ON THE ALASKA PERMANENT FUND DIVIDEND. These forms are available at your local court clerk's office and also online at the Alaska Court System website at: <http://www.courts.alaska.gov/forms/index.htm>

REMINDER: A small claims judgment is not required to establish a debt already ordered in a criminal restitution judgment. A civil judgment for the debt is already established when the court enters a criminal restitution order. A small claims suit may be required, however, to obtain a writ (order) to execute (collect) the debt.

COURT ENFORCEMENT

These remedies do not limit the authority of the criminal court to enforce the criminal restitution order. The court may order the offender, on its own or upon request of the state prosecutor or probation officer, to submit financial information by requiring the defendant to complete under oath and file court form CR-206 FINANCIAL STATEMENT (available at <http://www.courts.alaska.gov/forms/index.htm>). The financial statement must be filed within five (5) days after the date of a court order to submit the financial statement and a copy of the statement must be provided to the prosecutor and probation officer, if any. The court may order the offender to make payment within a specified period of time. The court may also order the offender to make payment in specified installments. The court may modify the payment schedule based on the offender's ability to pay, but the court may not reduce the amount of restitution owed. If the offender fails to make one or more payments required by the court's specified deadline or specified installment plan, then each of the following may occur:

The crime victim, and a prosecutor acting on behalf of the crime victim, may enforce the total amount remaining under the order of restitution.

The court may order the defendant to appear in court and show cause why he should not be held in contempt for failing to pay restitution as ordered.

The court can hold the defendant in contempt of court and fine or jail the defendant for failure to pay restitution (unless the defendant demonstrates that he has failed to pay because he is unable despite continuing good faith efforts to make restitution).

The prosecutor may petition the court to revoke the defendant's probation for failure to pay restitution as ordered (however the defendant may not be imprisoned solely because he is unable to pay).

The court may impose jail time at the rate of one day per \$50 of restitution owed, or one year, whichever is shorter, until the restitution order is satisfied.

The court may require the offender to make restitution by means other than the payment of money. Bail money may be used to pay the defendant's restitution. The defendant, or the person who posted the bail on behalf of the defendant, may complete and file court form CR-235 AUTHORIZATION FOR USE OF BAIL MONEY (available at <http://www.courts.alaska.gov/forms/index.htm>) so that bail posted may be applied to restitution. If the court orders bail posted by a defendant forfeited, the court must order the forfeited bail first to be applied to satisfy any criminal restitution order.

VIOLENT CRIMES COMPENSATION

If you are a victim of a violent crime, you may be entitled to separate financial assistance from the Violent Crimes Compensation Board (VCCB). For more information about applying for a financial award contact the VCCB at (907) 465-3040 or (800) 764-3040 (toll-free) or at <http://doa.alaska.gov/vccb/>

DOMESTIC VIOLENCE ASSISTANCE

If you are a victim of domestic violence, you may also be eligible for grant-funded financial assistance, for domestic violence victims statewide, through AWAIC, the domestic violence shelter in Anchorage. For more information contact AWAIC at (907) 279-9581 or www.awaic.org